

REMARKS

In response to the Restriction Requirement, Applicant elects the claims of Group 1 (claims 1-12, 14-30, 65 and 73-87) for prosecution, with traverse.

Applicant traverses the Restriction Requirement for the following reasons. The Examiner states that the genus of Group 1 lacks a special technical feature because the claim, as a whole, does not contribute over the prior art. In particular, the Examiner states that spinosyn biosynthesis genes are taught by the prior art reference of Baltz et al. (USPN 6,143,526), and thus the genus of any nucleic acid encoding a region coding for enzyme activity involved in spinosyn biosynthesis does not contribute over the prior art as a whole.

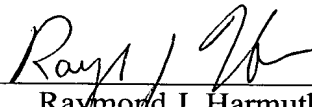
In contrast to the Baltz et al. reference, which teaches only homologous transformation of *S. spinosa* strains with the biosynthetic genes of spinosyn, new claims 73-87 have been added, which are drawn to the *heterologous* expression of the gene cluster for spinosyn biosynthesis in transformed organisms other than *S. spinosa*, in which the vectors containing the whole gene cluster, the transfer of those vectors into heterologous host cells and the production of spinosyns in those cells are claimed. Support for the language contained in new claims 73-87 is found on page 7, line 25 to page 10, line 8, of the specification.

Applicant respectfully submits, therefore, that heterologous expression of a whole gene cluster comprised of nucleic acids responsible for coding all of the enzymes involved in the biosynthesis of spinosyn in organisms other than *S. spinosa* is neither taught nor suggested by Baltz et al., and thus the recitations of claims 73-87 provide a special technical feature which can be shared with all of the other groups listed above and, thus, all of the claims recite a single general inventive concept.

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Reply to USPTO Correspondence of March 25, 2005
Attorney Docket No. Mo 6996/LeA 33,955

Entry of the accompanying Amendment, withdrawal of the Restriction Requirement and allowance of pending claims 1-5, 7-67 and 70-87 are respectfully requested.

Respectfully submitted,

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